

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

HUNG-CHUAN CHENG, M.D.

**Physician's and Surgeon's
Certificate No. A82948**

Respondent

Case No. 8002014010394

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 9, 2018.

IT IS SO ORDERED: October 11, 2018.

MEDICAL BOARD OF CALIFORNIA



**Ronald H. Lewis, M.D., Chair
Panel A**

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CLAUDIA RAMIREZ
Deputy Attorney General
4 State Bar No. 205340
California Department of Justice
5 300 South Spring Street, Suite 1702
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6 Telephone: (213) 269-6482
Facsimile: (213) 897-9395
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 800-2014-010394

13 HUNG-CHUAN CHENG, M.D.
11100 Warner Avenue, #118
Fountain Valley, California 92708

OAH No. 2018021081

14 Physician's and Surgeon's Certificate
No. A 82948,

15 **STIPULATED SETTLEMENT AND**
16 **DISCIPLINARY ORDER**

Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
21 Board of California ("Board"). She brought this action solely in her official capacity and is
22 represented in this matter by Xavier Becerra, Attorney General of the State of California, by
23 Claudia Ramirez, Deputy Attorney General.

24 2. Respondent Hung-Chuan Cheng, M.D. ("Respondent") is represented in this
25 proceeding by attorney Frederick M. Ray, Esq., whose address is: 5000 Birch Street, Suite 7000,
26 Newport Beach, California 92660.

27 3. On or about May 2, 2003, the Board issued Physician's and Surgeon's Certificate No.
28 A 82948 to Respondent. That Certificate was in full force and effect at all times relevant to the

1 charges brought in Accusation No. 800-2014-010394, and will expire on October 31, 2018, unless
2 renewed.

3 JURISDICTION

4 4. Accusation No. 800-2014-010394 was filed before the Board, and is currently
5 pending against Respondent. The Accusation and all other statutorily required documents were
6 properly served on Respondent on December 4, 2017. Respondent timely filed his Notice of
7 Defense contesting the Accusation.

8 5. A copy of Accusation No. 800-2014-010394 is attached as Exhibit A and
9 incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 800-2014-010394. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order.

15 7. Respondent is fully aware of his legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
17 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 9. Respondent understands and agrees that the charges and allegations in Accusation
25 No. 800-2014-010394, if proven at a hearing, constitute cause for imposing discipline upon his
26 Physician's and Surgeon's Certificate.

27 10. For the purpose of resolving the Accusation without the expense and uncertainty of
28 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual

1 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
2 those charges.

3 11. Respondent agrees that if he ever petitions for early termination or modification of
4 probation, or if the Board ever petitions for revocation of probation, all of the charges and
5 allegations contained in Accusation No. 800-2014-010394 shall be deemed true, correct and fully
6 admitted by Respondent for purposes of that proceeding or any other licensing proceeding
7 involving Respondent in the State of California.

8 12. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
9 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
10 Disciplinary Order below.

11 CONTINGENCY

12 13. This stipulation shall be subject to approval by the Medical Board of California.
13 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
14 Board of California may communicate directly with the Board regarding this stipulation and
15 settlement, without notice to or participation by Respondent or his counsel. By signing the
16 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
17 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
18 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
19 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
20 action between the parties, and the Board shall not be disqualified from further action by having
21 considered this matter.

22 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
24 signatures thereto, shall have the same force and effect as the originals.

25 15. In consideration of the foregoing admissions and stipulations, the parties agree that
26 the Board may, without further notice or formal proceeding, issue and enter the following
27 Disciplinary Order:

28 ///

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 82948 issued
3 to Respondent Hung-Chuan Cheng, M.D. is revoked. However, the revocation is stayed and
4 Respondent is placed on probation for five (5) years on the following terms and conditions.

5 1. **CONTROLLED SUBSTANCES - PARTIAL RESTRICTION.** Respondent shall not
6 order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined by
7 the California Uniform Controlled Substances Act, except for those drugs listed in Schedule V of
8 the Act, until he successfully completes a prescribing practices course.

9 Respondent shall not issue an oral or written recommendation or approval to a patient or a
10 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical
11 purposes of the patient within the meaning of Health and Safety Code section 11362.5. If
12 Respondent forms the medical opinion, after an appropriate prior examination and medical
13 indication, that a patient's medical condition may benefit from the use of marijuana, Respondent
14 shall so inform the patient and shall refer the patient to another physician who, following an
15 appropriate prior examination and medical indication, may independently issue a medically
16 appropriate recommendation or approval for the possession or cultivation of marijuana for the
17 personal medical purposes of the patient within the meaning of Health and Safety Code section
18 11362.5. In addition, Respondent shall inform the patient or the patient's primary caregiver that
19 Respondent is prohibited from issuing a recommendation or approval for the possession or
20 cultivation of marijuana for the personal medical purposes of the patient and that the patient or
21 the patient's primary caregiver may not rely on Respondent's statements to legally possess or
22 cultivate marijuana for the personal medical purposes of the patient. Respondent shall fully
23 document in the patient's chart that the patient or the patient's primary caregiver was so
24 informed. Nothing in this condition prohibits Respondent from providing the patient or the
25 patient's primary caregiver information about the possible medical benefits resulting from the use
26 of marijuana.

27 2. **CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO**
28 **RECORDS AND INVENTORIES.** Respondent shall maintain a record of all controlled

1 substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any
2 recommendation or approval which enables a patient or patient's primary caregiver to possess or
3 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health
4 and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and
5 address of the patient; 2) the date; 3) the character and quantity of controlled substances involved;
6 and 4) the indications and diagnosis for which the controlled substances were furnished.

7 Respondent shall keep these records in a separate file or ledger, in chronological order. All
8 records and any inventories of controlled substances shall be available for immediate inspection
9 and copying on the premises by the Board or its designee at all times during business hours and
10 shall be retained for the entire term of probation.

11 3. EDUCATION COURSE. Within 60 calendar days of the effective date of this
12 Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee
13 for its prior approval educational program(s) or course(s) which shall not be less than 40 hours
14 per year, for each year of probation. The educational program(s) or course(s) shall be aimed at
15 correcting any areas of deficient practice or knowledge and shall be Category I certified. The
16 educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to
17 the Continuing Medical Education (CME) requirements for renewal of licensure. Following the
18 completion of each course, the Board or its designee may administer an examination to test
19 Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65
20 hours of CME of which 40 hours were in satisfaction of this condition.

21 4. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective
22 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
23 advance by the Board or its designee. Respondent shall provide the approved course provider
24 with any information and documents that the approved course provider may deem pertinent.
25 Respondent shall participate in and successfully complete the classroom component of the course
26 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
27 complete any other component of the course within one (1) year of enrollment. The prescribing
28 practices course shall be at Respondent's expense and shall be in addition to the Continuing

1 Medical Education (CME) requirements for renewal of licensure.

2 A prescribing practices course taken after the acts that gave rise to the charges in the
3 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
4 or its designee, be accepted towards the fulfillment of this condition if the course would have
5 been approved by the Board or its designee had the course been taken after the effective date of
6 this Decision.

7 Respondent shall submit a certification of successful completion to the Board or its
8 designee not later than 15 calendar days after successfully completing the course, or not later than
9 15 calendar days after the effective date of the Decision, whichever is later.

10 5. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
11 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
12 advance by the Board or its designee. Respondent shall provide the approved course provider
13 with any information and documents that the approved course provider may deem pertinent.
14 Respondent shall participate in and successfully complete the classroom component of the course
15 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
16 complete any other component of the course within one (1) year of enrollment. The medical
17 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
18 Medical Education (CME) requirements for renewal of licensure.

19 A medical record keeping course taken after the acts that gave rise to the charges in the
20 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
21 or its designee, be accepted towards the fulfillment of this condition if the course would have
22 been approved by the Board or its designee had the course been taken after the effective date of
23 this Decision.

24 Respondent shall submit a certification of successful completion to the Board or its
25 designee not later than 15 calendar days after successfully completing the course, or not later than
26 15 calendar days after the effective date of the Decision, whichever is later.

27 6. PROFESSIONALISM PROGRAM (ETHICS COURSE). Within 60 calendar days of
28 the effective date of this Decision, Respondent shall enroll in a professionalism program, that

1 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1.
2 Respondent shall participate in and successfully complete that program. Respondent shall
3 provide any information and documents that the program may deem pertinent. Respondent shall
4 successfully complete the classroom component of the program not later than six (6) months after
5 Respondent's initial enrollment, and the longitudinal component of the program not later than the
6 time specified by the program, but no later than one (1) year after attending the classroom
7 component. The professionalism program shall be at Respondent's expense and shall be in
8 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

9 A professionalism program taken after the acts that gave rise to the charges in the
10 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
11 or its designee, be accepted towards the fulfillment of this condition if the program would have
12 been approved by the Board or its designee had the program been taken after the effective date of
13 this Decision.

14 Respondent shall submit a certification of successful completion to the Board or its
15 designee not later than 15 calendar days after successfully completing the program or not later
16 than 15 calendar days after the effective date of the Decision, whichever is later.

17 7. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
18 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
19 monitor(s), the name and qualifications of one or more licensed physicians and surgeons whose
20 licenses are valid and in good standing, and who are preferably American Board of Medical
21 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
22 relationship with Respondent, or other relationship that could reasonably be expected to
23 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
24 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
25 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

26 The Board or its designee shall provide the approved monitor with copies of the Decision(s)
27 and Accusation(s), and a proposed monitoring plan. Within 15 calendar days of receipt of the
28 Decision(s), Accusation(s), and proposed monitoring plan, the monitor shall submit a signed

1 statement that the monitor has read the Decision(s) and Accusation(s), fully understands the role
2 of a monitor, and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees
3 with the proposed monitoring plan, the monitor shall submit a revised monitoring plan with the
4 signed statement for approval by the Board or its designee.

5 Within 60 calendar days of the effective date of this Decision, and continuing throughout
6 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
7 make all records available for immediate inspection and copying on the premises by the monitor
8 at all times during business hours and shall retain the records for the entire term of probation.

9 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
10 date of this Decision, Respondent shall receive a notification from the Board or its designee to
11 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
12 shall cease the practice of medicine until a monitor is approved to provide monitoring
13 responsibility.

14 The monitor(s) shall submit a quarterly written report to the Board or its designee which
15 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
16 are within the standards of practice of medicine, and whether Respondent is practicing medicine
17 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
18 that the monitor submits the quarterly written reports to the Board or its designee within 10
19 calendar days after the end of the preceding quarter.

20 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
21 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
22 name and qualifications of a replacement monitor who will be assuming that responsibility within
23 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
24 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
25 notification from the Board or its designee to cease the practice of medicine within three (3)
26 calendar days after being so notified. Respondent shall cease the practice of medicine until a
27 replacement monitor is approved and assumes monitoring responsibility.

28 In lieu of a monitor, Respondent may participate in a professional enhancement program

1 approved in advance by the Board or its designee that includes, at minimum, quarterly chart
2 review, semi-annual practice assessment, and semi-annual review of professional growth and
3 education. Respondent shall participate in the professional enhancement program at
4 Respondent's expense during the term of probation.

5 8. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
6 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
7 Chief Executive Officer at every hospital where privileges or membership are extended to
8 Respondent, at any other facility where Respondent engages in the practice of medicine,
9 including all physician and locum tenens registries or other similar agencies, and to the Chief
10 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
11 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
12 calendar days.

13 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

14 9. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
15 governing the practice of medicine in California and remain in full compliance with any court
16 ordered criminal probation, payments, and other orders.

17 10. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
18 under penalty of perjury on forms provided by the Board, stating whether there has been
19 compliance with all the conditions of probation.

20 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
21 of the preceding quarter.

22 11. GENERAL PROBATION REQUIREMENTS.

23 Compliance with Probation Unit

24 Respondent shall comply with the Board's probation unit.

25 Address Changes

26 Respondent shall, at all times, keep the Board informed of Respondent's business and
27 residence addresses, email address (if available), and telephone number. Changes of such
28 addresses shall be immediately communicated in writing to the Board or its designee. Under no

1 circumstances shall a post office box serve as an address of record, except as allowed by Business
2 and Professions Code section 2021(b).

3 Place of Practice

4 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
5 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
6 facility.

7 License Renewal

8 Respondent shall maintain a current and renewed California physician's and surgeon's
9 license.

10 Travel or Residence Outside California

11 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
12 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
13 (30) calendar days.

14 In the event Respondent should leave the State of California to reside or to practice,
15 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
16 departure and return.

17 12. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
18 available in person upon request for interviews either at Respondent's place of business or at the
19 probation unit office, with or without prior notice throughout the term of probation.

20 13. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
21 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
22 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
23 defined as any period of time Respondent is not practicing medicine as defined in Business and
24 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct
25 patient care, clinical activity or teaching, or other activity as approved by the Board. If
26 Respondent resides in California and is considered to be in non-practice, Respondent shall
27 comply with all terms and conditions of probation. All time spent in an intensive training
28 program which has been approved by the Board or its designee shall not be considered non-

1 practice and does not relieve Respondent from complying with all the terms and conditions of
2 probation. Practicing medicine in another state of the United States or Federal jurisdiction while
3 on probation with the medical licensing authority of that state or jurisdiction shall not be
4 considered non-practice. A Board-ordered suspension of practice shall not be considered as a
5 period of non-practice.

6 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
7 months, Respondent shall successfully complete the Federation of State Medical Boards's Special
8 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
9 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
10 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

11 Respondent's period of non-practice while on probation shall not exceed two (2) years.

12 Periods of non-practice will not apply to the reduction of the probationary term.

13 Periods of non-practice for a Respondent residing outside of California will relieve
14 Respondent of the responsibility to comply with the probationary terms and conditions with the
15 exception of this condition and the following terms and conditions of probation: Obey All Laws;
16 General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or
17 Controlled Substances; and Biological Fluid Testing.

18 14. COMPLETION OF PROBATION. Respondent shall comply with all financial
19 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
20 completion of probation. Upon successful completion of probation, Respondent's certificate shall
21 be fully restored.

22 15. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
23 of probation is a violation of probation. If Respondent violates probation in any respect, the
24 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
25 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
26 Probation, or an Interim Suspension Order is filed against Respondent during probation, the
27 Board shall have continuing jurisdiction until the matter is final, and the period of probation shall
28 be extended until the matter is final.

16. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

17. PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Frederick M. Ray, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED:

8/2/18

HUNG-CHUAN CHENG, M.D.
Respondent

1 I have read and fully discussed with Respondent Hung-Chuan Cheng, M.D. the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
3 I approve its form and content.

4
5
6
7 DATED: 8/2/18

Fredrick M. Ray
FREDRICK M. RAY
Attorney for Respondent

8
9
10 ENDORSEMENT

11 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
12 submitted for consideration by the Medical Board of California.

13 Dated: 8/3/18

Respectfully submitted,

14 XAVIER BECERRA
15 Attorney General of California
16 E. A. JONES III
17 Supervising Deputy Attorney General

Claudia Ramirez
18 CLAUDIA RAMIREZ
19 Deputy Attorney General
20 Attorneys for Complainant

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Exhibit A

Accusation No. 800-2014-010394

1 XAVIER BECERRA
Attorney General of California
2 E. A. JONES III
Supervising Deputy Attorney General
3 CLAUDIA RAMIREZ
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4 State Bar No. 205340
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5 300 South Spring Street, Suite 1702
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Dec. 4 20 17
BY [Signature] ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
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11 In the Matter of the Accusation Against:

Case No. 800-2014-010394

12 HUNG-CHUAN CHENG, M.D.
11100 Warner Avenue, #118
13 Fountain Valley, California 92708

A C C U S A T I O N

14 Physician's and Surgeon's Certificate
15 No. A 82948,

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Kimberly Kirchmeyer ("Complainant") brings this Accusation solely in her official
20 capacity as the Executive Director of the Medical Board of California, Department of Consumer
21 Affairs ("Board").

22 2. On or about May 2, 2003, the Medical Board issued Physician's and Surgeon's
23 Certificate Number A 82948 to Hung-Chuan Cheng, M.D. ("Respondent"). That Certificate was
24 in full force and effect at all times relevant to the charges brought herein and will expire on
25 October 31, 2018, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 2227 of the Code provides that a licensee who is found guilty under the
2 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
3 one year, placed on probation and required to pay the costs of probation monitoring, or such other
4 action taken in relation to discipline as the Board deems proper.

5 5. Section 725 of the Code states:

6 “(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering
7 of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated
8 acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of
9 the community of licensees is unprofessional conduct for a physician and surgeon, dentist,
10 podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language pathologist,
11 or audiologist.

12 “(b) Any person who engages in repeated acts of clearly excessive prescribing or
13 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of
14 not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by
15 imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and
16 imprisonment.

17 “(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or
18 administering dangerous drugs or prescription controlled substances shall not be subject to
19 disciplinary action or prosecution under this section.

20 “(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section
21 for treating intractable pain in compliance with Section 2241.5.”

22 6. Section 2234 of the Code states:

23 “The board shall take action against any licensee who is charged with unprofessional
24 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
25 limited to, the following:

26 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
27 violation of, or conspiring to violate any provision of this chapter.

28 “(b) Gross negligence.

1 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
2 omissions. An initial negligent act or omission followed by a separate and distinct departure from
3 the applicable standard of care shall constitute repeated negligent acts.

4 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
5 for that negligent diagnosis of the patient shall constitute a single negligent act.

6 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
7 constitutes the negligent act described in paragraph (1), including, but not limited to, a
8 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
9 applicable standard of care, each departure constitutes a separate and distinct breach of the
10 standard of care.

11 “(d) Incompetence.

12 “(e) The commission of any act involving dishonesty or corruption which is substantially
13 related to the qualifications, functions, or duties of a physician and surgeon.

14 “(f) Any action or conduct which would have warranted the denial of a certificate.

15 “(g) The practice of medicine from this state into another state or country without meeting
16 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not
17 apply to this subdivision. This subdivision shall become operative upon the implementation of
18 the proposed registration program described in Section 2052.5.

19 “(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and
20 participate in an interview by the board. This subdivision shall only apply to a certificate holder
21 who is the subject of an investigation by the board.”

22 7. Section 2242 of the Code states:

23 “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
24 without an appropriate prior examination and a medical indication, constitutes unprofessional
25 conduct.

26 “(b) No licensee shall be found to have committed unprofessional conduct within the
27 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of
28 the following applies:

1 “(1) The licensee was a designated physician and surgeon or podiatrist serving in the
2 absence of the patient’s physician and surgeon or podiatrist, as the case may be, and if the drugs
3 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return
4 of his or her practitioner, but in any case no longer than 72 hours.

5 “(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed
6 vocational nurse in an inpatient facility, and if both of the following conditions exist:

7 “(A) The practitioner had consulted with the registered nurse or licensed vocational nurse
8 who had reviewed the patient’s records.

9 “(B) The practitioner was designated as the practitioner to serve in the absence of the
10 patient’s physician and surgeon or podiatrist, as the case may be.

11 “(3) The licensee was a designated practitioner serving in the absence of the patient’s
12 physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized
13 the patient’s records and ordered the renewal of a medically indicated prescription for an amount
14 not exceeding the original prescription in strength or amount or for more than one refill.

15 “(4) The licensee was acting in accordance with Section 120582 of the Health and Safety
16 Code.”

17 8. Section 2242.1 of the Code states:

18 “(a) No person or entity may prescribe, dispense, or furnish, or cause to be prescribed,
19 dispensed, or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the
20 Internet for delivery to any person in this state, without an appropriate prior examination and
21 medical indication, except as authorized by Section 2242.

22 “(b) Notwithstanding any other provision of law, a violation of this section may subject the
23 person or entity that has committed the violation to either a fine of up to twenty-five thousand
24 dollars (\$25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of
25 twenty-five thousand dollars (\$25,000) per occurrence.

26 “(c) The Attorney General may bring an action to enforce this section and to collect the
27 fines or civil penalties authorized by subdivision (b).

28 “(d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon

1 notification by the Attorney General or the board of a final judgment in an action brought under
2 this section, shall subtract the amount of the fine or awarded civil penalties from any tax refunds
3 or lottery winnings due to the person who is a defendant in the action using the offset authority
4 under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes
5 as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to
6 the board for deposit in the Contingent Fund of the Medical Board of California.

7 “(e) If the person or entity that is the subject of an action brought pursuant to this section is
8 not a resident of this state, a violation of this section shall, if applicable, be reported to the
9 person’s or entity’s appropriate professional licensing authority.

10 “(f) Nothing in this section shall prohibit the board from commencing a disciplinary action
11 against a physician and surgeon pursuant to Section 2242 or 2525.3.”

12 9. Section 2266 of the Code states:

13 “The failure of a physician and surgeon to maintain adequate and accurate records relating
14 to the provision of services to their patients constitutes unprofessional conduct.”

15 10. Section 4022 of the Code states:

16 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in
17 humans or animals, and includes the following:

18 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
19 prescription,’ ‘Rx only,’ or words of similar import.

20 “(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale
21 by or on the order of a,’ ‘Rx only,’ or words of similar import, the blank to be filled in with the
22 designation of the practitioner licensed to use or order use of the device.

23 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
24 prescription or furnished pursuant to Section 4006.”

25 PERTINENT DRUGS

26 11. The following drugs are classified as follows:

27 A. **Hydroquinone** is a skin-bleaching agent. It is used to lighten the skin where there
28 are changes in color. It is a dangerous drug as defined in Business and Professions Code section

1 4022.

2 B. **Hydrocodone/Acetaminophen** (Norco, Lortab, Vicodin) is an opioid pain
3 medication. It is a Schedule II controlled substance as defined by 21 Code of Federal Regulations
4 part 1308.12(b)(1)(vi) (2017) and Health and Safety Code section 11055, subdivision (b)(1)(I). It
5 is a dangerous drug as defined in Business and Professions Code section 4022.

6 C. **Benzodiazepines** are a class of drugs that produce Central Nervous System ("CNS")
7 depression and are most commonly used to treat insomnia and anxiety. Examples of
8 benzodiazepines include **alprazolam** (e.g., Xanax), **diazepam** (e.g., Valium) and **lorazepam**
9 (e.g., Ativan). They are classified as Schedule IV controlled substances as defined by 21 Code of
10 Federal Regulations part 1308.14(c)(2), (c)(16), and (c)(30) (2017) and Health and Safety Code
11 section 11057, subdivision (d)(1), (d)(9), and (d)(16). They are dangerous drugs as defined in
12 Business and Professions Code section 4022.

13 D. **Carisoprodol** (Soma) is a muscle-relaxant and sedative. Effective January 11, 2012,
14 Carisoprodol is classified as a Schedule IV controlled substance as defined by 21 Code of Federal
15 Regulations part 1308.14(c)(6) (2017). It is a dangerous drug as defined in Business and
16 Professions Code section 4022.

17 E. **Promethazine with Codeine** (Phenergan with Codeine) is a combination medicine
18 used to treat cold or allergy symptoms. **Promethazine** is an antihistamine. **Codeine** is a pain
19 reliever and cough suppressant. Substances containing not more than 200 milligrams of codeine
20 per 100 milliliters or 100 grams are Schedule V controlled substances as defined by 21 Code of
21 Federal Regulations part 1308.15(c)(1) (2017) and Health and Safety Code section 11058,
22 subdivision (c)(1). It is a dangerous drug as defined in Business and Professions Code section
23 4022.

24 F. **Tramadol** (Ultram) is a narcotic-like pain reliever. It is a Schedule IV controlled
25 substance as defined by 21 Code of Federal Regulations part 1308.14(b)(3) (2017). It is a
26 dangerous drug as defined in Business and Professions Code section 4022.

27 G. **Zolpidem** (Ambien) is a sedative. It is a Schedule IV controlled substance as defined
28 by 21 Code of Federal Regulations part 1308.14(c)(54) (2017) and Health and Safety Code

1 section 11057, subdivision (d)(32). It is a dangerous drug as defined in Business and Professions
2 Code section 4022.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Gross Negligence)**

5 12. Respondent Hung-Chuan Cheng, M.D. is subject to disciplinary action under section
6 2234, subdivision (b), of the Code in that he was grossly negligent in the care and treatment of
7 patients A.L., M.P., S.A., S.D., and P.D.¹ The circumstances are as follows:

8 **Patient A.L.**

9 13. On or about February 17, 2016, investigator D.B. visited the website
10 www.truebeauty.com and ordered one Obagi-C RX System C-Clarifying Serum. He posed as
11 A.L. when making the purchase. He was not asked any medical questions. He was not advised
12 that a medical doctor would follow-up with him after the order was placed. Investigator D.B. was
13 able to place the order without a prescription. His order number was 12935913.

14 14. On February 22, 2016, investigator D.B. received a package for A.L. from the "Order
15 Processing Center," 1322 Bell, Suite 10, Tustin, California 92780. Order number 12935913 was
16 printed on the outside of the package, which matched the order number of his receipt. The
17 package contained one sealed bottle labeled Obagi-C Rx System C-Clarifying Serum. The label
18 stated the product was a "Skin Lightening Serum with Vitamin C 10% Hydroquinone USP, 4%."
19 The label also stated "Rx Only," and contained one fluid ounce of serum. The package also
20 contained a one-page receipt which listed TrueBeauty's address as 11100 Warner Avenue Suite
21 118, Fountain Valley, California 92708, which is Respondent's address of record with the Board.

22 15. Obagi-C RX System C-Clarifying Serum is used for the gradual bleaching of
23 hyperpigmented skin conditions such as chloasma, melasma, freckles, senile lentigines, and other
24 unwanted areas of melanin hyperpigmentation. It contains Hydroquinone USP, 4%. A
25 prescription is required to obtain the serum.

26 ///

27 _____
28 ¹ The initials of patients' names are used to protect their right of privacy.

1 Patient M.P.

2 16. On or about March 28, 2016, investigator D.B. again visited the website
3 www.truebeauty.com and ordered one Obagi-C RX System C-Clarifying Serum. He posed as
4 M.P. when making the purchase. He was not asked any medical questions. He was not advised
5 that a medical doctor would follow-up with him after the order was placed. Investigator D.B. was
6 able to place the order without a prescription. His order number was 13026131.

7 17. On or about March 31, 2016, investigator D.B. received a package for M.P. from the
8 "Order Processing Center" 1322 Bell, Suite 10, Tustin, California 92780. The order number
9 13026131 on the package matched the order number on his receipt. The package contained one
10 sealed bottle labeled Obagi-C Rx System C-Clarifying Serum. The label stated the product was a
11 "Skin Lightening Serum with Vitamin C 10% Hydroquinone USP, 4%." The label also stated
12 "Rx Only," and contained one fluid ounce of serum. The package also contained a one-page
13 receipt which listed TrueBeauty's address as 11100 Warner Avenue Suite 118, Fountain Valley,
14 California 92708.

15 Patient S.A.

16 18. On or about November 20, 2014, S.A., a 49-year-old female, started seeing
17 Respondent for chronic shoulder and back pain, major depression, migraine headaches, and
18 fibromyalgia. Respondent re-filled her Norco 5-325 mg (30 tablets) and Soma 350 mg (40
19 tablets) (2 refills) medications for pain. Norco and Soma are an unsafe combination. Respondent
20 did not document a detailed history, including pain severity or perception on a pain scale, physical
21 exam, or diagnostic criteria for a migraine headache. There is no record reflecting that he made
22 an effort to obtain S.A.'s prior medical records.

23 19. On or about December 18, 2014, S.A. underwent an x-ray of her spine. The x-ray did
24 not reveal any significant abnormality.

25 20. On or about December 19, 2014, Respondent re-filled the Norco 7.5-325 mg (40
26 tablets). He did not document a physical examination.

27 21. On or about and January 19, 2015, Respondent re-filled the Norco 7.5-325 mg (40
28 tablets) and Soma 350 mg (40 tablets) (2 refills). He did not document an objective examination.

1 He referred S.A. to an orthopedist.

2 22. On or about February 23, 2015, Respondent re-filled the Norco 7.5-325 mg. He
3 increased the quantity from 40 tablets to 60 tablets. There is no record of a pain contract, urine
4 toxicology screen, or attempt to taper S.A. down from the pain medications. An MRI of her
5 shoulder was pending. Respondent referred her to a pain specialist and neurologist.

6 23. On or about March 23, 2015, April 20, 2015, July 29, 2015, September 14, 2015, and
7 May 22, 2017, Respondent re-filled the Norco 7.5-325 mg (60 tablets).

8 24. On or about May 21, 2015 and June 29, 2015, Respondent re-filled the Norco 7.5-325
9 mg (60 tablets) and Soma 350 mg (60 tablets).

10 25. On or about September 29, 2015, November 30, 2015, and June 14, 2016, Respondent
11 re-filled the Soma 350 mg (60 tablets). On or about September 29, 2015, he also prescribed
12 Prozac² for depression.

13 26. On or about August of 2015, S.A. underwent surgery of her rotator cuff/shoulder.
14 Respondent does not have records from the orthopedist for the surgery in his medical records for
15 S.A.

16 27. On or about October 6, 2015, Dr. P.T., the post-operation pain management/spine
17 doctor, indicated in a report located in Respondent's medical records for S.A. that a urine
18 toxicology screen was positive for amphetamines,³ opioids, and NMDA. S.A. admitted to Dr.
19 P.T. that she consumed phentermine⁴ and her husband's morphine⁵ for pain management. Dr.
20 P.T. reviewed a pain contract with S.A. and advised her that if she deviated from it she would be
21 discharged from his care. He prescribed a limited number of pills to S.A. and advised her about

22
23 ² Fluoxetine (e.g., Prozac) is an antidepressant of the selective serotonin reuptake inhibitor
class. It is a dangerous drug as defined in Business and Professions Code section 4022.

24 ³ Amphetamine is a Schedule II controlled substance as defined by 21 Code of Federal
Regulations part 1308.12(d)(1) (2017) and Health and Safety Code section 11055, subdivision
25 (d)(1). It is a dangerous drug as defined in Business and Professions Code section 4022.

26 ⁴ Phentermine is a Schedule IV controlled substances as defined by 21 Code of Federal
Regulations part 1308.14(f)(9) (2017) and Health and Safety Code section 11057, subdivision
(f)(4). It is a dangerous drug as defined in Business and Professions Code section 4022.

27 ⁵ Morphine is a Schedule II controlled substance as defined by 21 Code of Federal
Regulations part 1308.12(b)(1)(ix) (2017) and Health and Safety Code section 11055, subdivision
28 (b)(1)(L). It is a dangerous drug as defined in Business and Professions Code section 4022.

1 the need for frequent follow up and urine toxicology screens.

2 28. Despite the above-mentioned report, Respondent prescribed Prozac and continued to
3 prescribe Norco and Soma to S.A. Throughout the time that he treated S.A., Respondent did not
4 check C.U.R.E.S.,⁶ require her to undergo urine toxicology screens, or have a pain contract with
5 her. Respondent continued to treat and prescribe controlled substances to S.A. until on or about
6 May 22, 2017.

7 Patient S.D.

8 29. On or about June 6, 2014, S.D., a 39-year-old female, started seeing Respondent. She
9 had a history of hypertension, hypothyroidism, fibromyalgia and recurrent bronchitis. She first
10 saw him for acute bronchitis. Respondent treated her with antibiotics and Phenergan with codeine
11 6.25-10 Syrup (120 mL) (with two refills). Phenergan with codeine is also known as Purple
12 Drank and is commonly abused.

13 30. On or about July 1, 2014, Respondent re-filled the Phenergan with codeine 6.25-10
14 Syrup (240 mL) (with one refill). There is no chart entry for that date in Respondent's medical
15 records for S.D.

16 31. On or about July 12, 2014, Respondent saw S.D. for a persistent cough. He ordered a
17 chest x-ray. There is no record of the x-ray or chart entry dated July 12, 2014 in Respondent's
18 medical records for S.D.

19 32. On or about September 2, 2014, Respondent prescribed Soma 350 mg (180 tablets) (2
20 refills). There is no chart entry for that date in Respondent's medical records for S.D.

21 33. On or about November 7, 2014, Respondent prescribed Valium 5 mg (30 tablets) and
22 re-filled the Phenergan with codeine 6.25-10 Syrup (120 mL) (with one refill).

23 34. On or about November 24, 2014 and December 5, 2014, Respondent re-filled the
24 Phenergan with codeine 6.25-10 Syrup (120 mL). There are no chart entries for both dates in
25 Respondent's medical records for S.D.

26
27 ⁶ C.U.R.E.S. refers to the Controlled Substance Utilization Review and Evaluation
28 System, which is a database containing information on Schedule II through IV controlled
substances dispensed in California.

35. On or about November 25, 2014, Respondent re-filled the Soma 350 mg (60 tablets) (with two refills).

36. On or about December 22, 2014, Respondent re-filled the Phenergan with codeine 6.25-10 Syrup (240 mL) (with one refill).

37. On or about January 16, 2015, Respondent re-filled the Phenergan with codeine 6.25-10 Syrup (240 mL).

38. On or about February 20, 2015, Respondent re-filled the Soma 350 mg (60 tablets) (with one refill) for fibromyalgia. He did not document a physical exam or detailed history. There are no prior medical records in Respondent's medical records for S.D.

39. On or about March 19, 2015, Respondent re-filled the Phenergan with codeine 6.25-10 Syrup (473 mL).

40. On or about May 1, 2015, Respondent prescribed Norco 5-325 mg (30 tablets) for low back pain and sciatica. A detailed history and physical exam is not in her medical records. He re-filled the Soma. Side effects and interaction were not documented.

41. Throughout the time that he treated S.D., Respondent did not check C.U.R.E.S., require her to undergo urine toxicology screens, or have a pain contract with her. Respondent continued to treat and prescribe controlled substances to S.D. until on or about July 25, 2016 when he last saw her for shortness of breath and referred her to the emergency room. She died of pneumonia and its complications.

Patient P.D.

42. On or about January 5, 2005, P.D., a 59-year-old female, started seeing Respondent. She had a history of ulcerative colitis, chronic pain due to deep vein thrombosis and arterial thrombosis, history of knee and hip replacement, chronic depression, and anxiety. Respondent managed her chronic pain, major depression, and anxiety along with her other medical conditions.

43. On or about January 21, 2014, Respondent re-filled Norco 10-325 (120 tablets) for chronic pain.

44. On or about April 16, 2014, Respondent re-filled Lorazepam 1 mg (30 tablets) (1 refill) and Ambien 10 mg (30 tablets) (1 refill). There is no chart entry for that date in

Respondent's medical records for P.D.

45. On or about April 22, 2014, Respondent re-filled Norco 10-325 (120 tablets) (2 refills).

46. On or about June 18, 2014, Respondent re-filled Tramadol 50 mg (180 tablets) (2 refills) and Lorazepam 1 mg (30 tablets). There is no chart entry for that date in Respondent's medical records for P.D.

47. On or about July 2, 2014, Respondent re-filled Norco 10-325 (120 tablets) (2 refills).

48. On or about August 26, 2014, Respondent re-filled Lorazepam 1 mg (30 tablets) (2 refills).

49. On or about September 12, 2014, Respondent re-filled Ambien 10 mg (30 tablets).

50. On or about October 9, 2014, Respondent re-filled Norco 10-325 mg (130 tablets).

51. On or about November 7, 2014, Respondent re-filled Norco 10-325 (120 tablets) for chronic pain. He also prescribed Ativan 1 mg (30 tablets) (2 refills). A chart entry dated November 7, 2014, is not in Respondent's medical records for P.D.

52. On or about December 2, 2014, Respondent re-filled the Ativan 1 mg (30 tablets) (2 refills); Ambien 10 mg (30 tablets) (2 refills); and Norco 10-325 (130 tablets).

53. On or about December 26, 2014, Respondent re-filled Tramadol 50 mg (90 tablets).

54. On or about January 7, 2015, Respondent re-filled Norco 10-325 mg (130 tablets).

55. On or about January 14, 2015, Respondent performed a pre-operation evaluation prior to P.D.'s right knee arthroplasty. There is no documentation of a detailed history or physical exam for her pre-operation clearance.

56. On or about January 30, 2015, Respondent re-filled the Ativan 1 mg a day (30 tablets) (2 refills); Tramadol 50 mg (90 tablets) (2 refills); and Norco 10-325 mg (130 tablets). The combined effects of these controlled substances is CNS Depression.

57. On or about February 17, 2015, Respondent re-filled the Norco 10-325 mg (130 tablets) and Tramadol 50 mg (90 tablets) (2 refills).

58. On or about May 5, 2015, Respondent re-filled the Ativan 1 mg (60 tablets) (2 refills) and Norco 10-325 mg (130 tablets).

1 59. On or about May 28, 2015, Respondent re-filled the Ambien 10 mg (30 tablets) (3
2 refills) and Norco 10-325 mg (130 tablets).

3 60. On or about June 10, 2015, Respondent re-filled Tramadol 50 mg (90 tablets) (3
4 refills).

5 61. On or about July 2, 2015, Respondent re-filled the Norco 10-325 mg (130 tablets) and
6 Lorazepam 1 mg (30 tablets) (3 refills).

7 62. On or about July 23, 2015, Respondent re-filled the Ambien 10 mg (30 tablets) (2
8 refills) and Norco 10-325 mg (130 tablets).

9 63. On or about August 26, 2015, Respondent re-filled Tramadol 50 mg (90 tablets) (5
10 refills); Ambien 10 mg (30 tablets) (5 refills); and Norco 10-325 mg (130 tablets).

11 64. On or about September 30, 2015, Respondent re-filled Norco 10-325 mg (130
12 tablets). A chart entry for that date is not in Respondent's medical records for P.D.

13 65. On or about October 30, 2015, Respondent prescribed Tramadol 50 mg (90 tablets) (5
14 refills); Ativan 1 mg (90 tablets) (2 refills); and Norco 10-325 mg (130 tablets). A chart entry for
15 that date is not in Respondent's medical records for P.D.

16 66. On November 13, 2015, Respondent prescribed Norco 10-325 mg (130 tablets). A
17 chart entry for that date is not in Respondent's medical records for P.D.

18 67. Throughout the time that he treated P.D, Respondent did not check C.U.R.E.S. or
19 require her to undergo urine toxicology screens. He allegedly had a pain contract in place.
20 Respondent continued to treat and prescribe controlled substances to P.D. until on or about
21 November 13, 2015 when she ceased to be his patient.

22 68. Respondent was grossly negligent as follows:

23 Patients A.L. and M.P.

24 A. Respondent committed an extreme departure from the standard of care when he
25 prescribed and/or dispensed prescription medication to patients A.L. and M.P. without a history,
26 physical exam, or doctor-patient relationship.

27 Patients S.A., S.D., and P.D.

28 B. Respondent committed an extreme departure from the standard of care when he failed

1 to maintain adequate and accurate records for S.A., S.D., and P.D. His handwritten notes are
2 illegible. His documentation of the patients' histories and physical exams is inadequate. He
3 failed to maintain records for certain patient visits.

4 C. Respondent committed an extreme departure from the standard of care when (1) he
5 failed to obtain prior medical records for each of the patients; (2) he did not obtain C.U.R.E.S.
6 reports on the patients; (3) he did not perform urine drug testing; and (4) he did not enter into pain
7 contracts with the patients, except allegedly for P.D.

8 69. Respondent's acts and/or omissions as set forth in paragraphs 13 through 68,
9 inclusive above, whether proven individually, jointly, or in any combination thereof, constitute
10 gross negligence pursuant to section 2234, subdivision (b), of the Code. Therefore, cause for
11 discipline exists.

12 SECOND CAUSE FOR DISCIPLINE

13 (Repeated Negligent Acts)

14 70. Respondent Hung-Chuan Cheng, M.D. is subject to disciplinary action under section
15 2234, subdivision (c), of the Code in that he engaged in repeated negligent acts in the care and
16 treatment of patients A.L., M.P., S.A., S.D., and P.D. The circumstances are as follows:

17 71. Paragraphs 12 through 69 are incorporated by reference as if fully set forth herein.

18 72. Respondent committed repeated negligent acts as follows:

19 A.L. and M.P.

20 A. Respondent committed a simple departure from the standard of care when he failed to
21 maintain medical records for patients A.L. and M.P.

22 Patients S.A., S.D., and P.D.

23 B. Respondent committed a simple departure from the standard of care when he
24 prescribed excessive narcotics to S.A., S.D., and P.D. There are no subjective and objective
25 findings (history and physical exam) or attempts to obtain prior medical records before
26 prescribing excessive controlled substances, including Soma and Norco to S.A. and P.D. Despite
27 having an inappropriate urine toxicology screen for S.A., Respondent continued to prescribe her
28 extensive amount of pain medicine until her last visit with him on or about May 22, 2017. There

1 is no documentation of his attempts to taper off from pain medications for any of the three
2 patients and no documentation of discussing medication interactions and side effects with the
3 patients.

4 73. Respondent's acts and/or omissions as set forth in paragraphs 70 through 72,
5 inclusive above, whether proven individually, jointly, or in any combination thereof, constitute
6 repeated negligent acts pursuant to section 2234, subdivision (c), of the Code. Therefore, cause
7 for discipline exists.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Excessive Prescribing)**

10 74. Respondent Hung-Chuan Cheng, M.D. is subject to disciplinary action under section
11 725 of the Code for repeated acts of clearly excessive prescribing of controlled substances with
12 respect to patients S.A., S.D., and P.D. The circumstances are as follows:

13 75. Paragraphs 12 through 73 are incorporated by reference as if fully set forth herein.

14 76. Respondent's acts and/or omissions as set forth in paragraphs 74 through 75,
15 inclusive above, whether proven individually, jointly, or in any combination thereof, constitute
16 repeated acts of clearly excessive prescribing pursuant to section 725 of the Code. Therefore,
17 cause for discipline exists.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Dispensing Dangerous Drugs Without**

20 **Appropriate Examination and Medical Indication)**

21 77. Respondent Hung-Chuan Cheng, M.D. is subject to disciplinary action under section
22 2242, subdivision (a), of the Code in that he prescribed and/or dispensed Skin Lightening Serum
23 with Vitamin C 10% Hydroquinone USP, 4% without an appropriate examination and medical
24 indication to patients A.L. and M.P. The circumstances are as follows:

25 78. Paragraphs 12 through 73 are incorporated by reference as if fully set forth herein.

26 79. Respondent's acts and/or omissions as set forth in paragraphs 77 through 78,
27 inclusive above, whether proven individually, jointly, or in any combination thereof, constitute
28 dispensing dangerous drugs without appropriate examination and medical indication pursuant to

1 section 2242, subdivision (a), of the Code. Therefore, cause for discipline exists.

2 **FIFTH CAUSE FOR DISCIPLINE**

3 **(Dispensing Dangerous Drugs or Devices on the Internet)**

4 80. Respondent Hung-Chuan Cheng, M.D. is subject to disciplinary action under section
5 2242.1, subdivision (a), of the Code in that he dispensed Skin Lightening Serum with Vitamin C
6 10% Hydroquinone USP, 4% on the internet to patients A.L. and M.P. The circumstances are as
7 follows:

8 81. Paragraphs 12 through 73 are incorporated by reference as if fully set forth herein.

9 82. Respondent's acts and/or omissions as set forth in paragraphs 80 through 81,
10 inclusive above, whether proven individually, jointly, or in any combination thereof, constitute
11 dispensing dangerous drugs on the internet pursuant to section 2242.1, subdivision (a), of the
12 Code. Therefore, cause for discipline exists.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 **(Inadequate and Inaccurate Record Keeping)**

15 83. Respondent is subject to disciplinary action under Code section 2266 for inadequate
16 and inaccurate record keeping with respect to patients A.L., M.P., S.A., S.D., and P.D. The
17 circumstances are as follows:

18 84. Paragraphs 12 through 73 are incorporated by reference as if fully set forth herein.

19 85. Respondent's acts and/or omissions as set forth in paragraphs 83 through 84,
20 inclusive above, whether proven individually, jointly, or in any combination thereof, constitute
21 inadequate and inaccurate record keeping pursuant to section 2266 of the Code. Therefore, cause
22 for discipline exists.

23 **SEVENTH CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct)**

25 86. Respondent Hung-Chuan Cheng, M.D. is subject to disciplinary action under section
26 2234 of the Code for unprofessional conduct with respect to patients A.L. and M.P. and patients
27 S.A., S.D., and P.D. The circumstances are as follows:

28 87. Paragraphs 12 through 85 are incorporated by reference as if fully set forth herein.

1 88. Respondent's acts and/or omissions as set forth in paragraphs 86 through 87,
2 inclusive above, whether proven individually, jointly, or in any combination thereof, constitute
3 unprofessional conduct pursuant to section 2234 of the Code. Therefore, cause for discipline
4 exists.


5 **PRAYER**

6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
7 and that following the hearing, the Medical Board of California issue a decision:

- 8 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 82948,
9 issued to Respondent Hung-Chuan Cheng, M.D.;
- 10 2. Revoking, suspending or denying approval of Respondent Hung-Chuan Cheng,
11 M.D.'s authority to supervise physician assistants and advanced practice nurses;
- 12 3. Ordering Respondent Hung-Chuan Cheng, M.D., if placed on probation, to pay the
13 Board the costs of probation monitoring; and
- 14 4. Taking such other and further action as deemed necessary and proper.
- 15

16

17 DATED: December 4, 2017


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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